REMARKS

The Applicant gratefully acknowledges the thorough examination to date, and has made an effort to fully respond to all of the issues raised by the Examiner. Applicant has taken care and believes that no new matter has been introduced by way of this response. Reconsideration of the application in view of the following amendments and remarks is respectfully requested.

Claims 1 – 33, 36 – 73, 76 – 116, 119 – 147 and 150 – 164 of this application are still pending. With this response, claims 34, 35, 74, 75, 81 – 92, 117, 118, 148, 149 have been canceled. Claims 81 – 92 have been previously withdrawn and are canceled with this response. Further, with this response Applicant has amended claims 1, 25, 36, 41, 76, 93, 119, 124, 150 and 155 pursuant to a teleconference held with the Examiner on June 2, 2010. During that teleconference, a proposed claim set was discussed. An agreement was reached regarding the currently amended claims overcoming the stated rejections.

The Examiner rejected claims 1 – 40, 93 – 123 and 155 – 164 under 35 U.S.C. 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner also rejected claims 41 – 80 and 124 – 154 under 35 U.S.C. 101 as being directed to non-statutory subject matter. Moreover, the Examiner rejected claims 155 – 159 under 35 U.S.C. 103(a) as being unpatentable over Weiss (U.S. 6,511,377), hereinafter "Weiss." Finally, the Examiner rejected claims 160 – 164 under 35 U.S.C. 103(a) as being unpatentable over Weiss in view of Walker '276.

The Applicant is not conceding in this patent application that the original and previously presented claims are not patentable over the art cited by the Examiner, since the claim amendments are only for facilitating expeditious prosecution of this patent application. Applicant respectfully reserves the right to pursue said amended and previously presented claims, and other claims, in one or more continuations and/or divisional patent applications.

35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 1 – 40, 93 – 123 and 155 – 164 under 35 U.S.C. 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner stated that "claim 25 is written as a method of an apparatus, makes uncertain if the applicant is claiming a method or an apparatus." Applicant has amended claim 25 to clearly claim an apparatus rather than a method.

The Examiner further stated that claims 1, 93 and 155 allegedly "fail to point out the physical structure of the product being claimed." Applicant has amended independent claims 1, 93 and 155 to include physical structure. More particularly, Applicant has amended these claims to each require that the house actually be a "computer-casino" through which the player interacts on a data communication medium that is directly connected to the computer casino house during the playing of the games of uncertain outcome. Support for this amendment may be found in the originally filed application:

> The house **30** may comprise a casino (e.g., a conventional casino, a computer casino), a race track, an person, a plurality of persons, a business entity (e.g., a corporation), etc. Note that a computer casino may include use of an Internet and/or Intranet. The player **20** may interact with the computer casino over a data communication medium such as, *inter alia*, an Internet, an Intranet, a cable television network, a telephone network, a wide area network, a satellite network, a short wave radio network, or a combination thereof. The player **20** interacts with the house **30** by engaging in entering (e.g., wagering) **42** in the game of uncertain outcome **50**, and by the house **30** engaging in management **44** of the game of uncertain outcome **50**. The scope of "network" in the preceding list of data communication media include, *inter alia*, a system of interconnected nodes, two directly-connected nodes or locations, etc. Such engaging in management **44** of the game of uncertain outcome **50** may include establishing the game of uncertain outcome **50** and the rules thereof, executing the game of uncertain outcome **50**, exchanging money of the player **20** for chips for playing the game of uncertain outcome **50**, etc. The scope of the house includes, *inter alia*, employees of the house, independent contractors with the house, physical facilities of the house, etc.

Specification, page 19, lines 6 – 20.

With this amendment, Applicant is now requiring that the entrance exchange structure include a computer casino house, such as an online casino or any other casino that is computerized such that the player interacts with the computer through a data communication medium when playing of the games of uncertain outcome. For example, a "computer casino" may comprise a plurality of slot machines that each accept betting through a digital card swiper and provide these bets to the computer. The player may interact with the computer while playing so that when the player wins, the computer credits the swiped card with the winnings in accordance with the claimed method (where the total market value of the winnings is greater than or equal to the total market value of the currency bet).

In light of the amendments and remarks hereinabove, Applicant respectfully contends that claims 1, 93 and 155 are now in compliance with 35 U.S.C. 112, second paragraph. Because claims 2 – 33 and 36 – 40 depend from claim 1, and claims 94 – 116 and 119 – 123 depend from claim 93, and claims 156 – 164 depend from claim 155, Applicant respectfully contends that these dependent claims are in compliance with 35 U.S.C. 112, second paragraph, for at least the same reasons. Thus, Applicant respectfully requests the Examiner withdraw this rejection.

35 U.S.C. § 101

The Examiner rejected claims 41 – 80 and 124 – 154 under 35 U.S.C. 101 as being directed to non-statutory subject matter. Particularly, the Examiner stated that:

> Claims 41 and 124 do not meet the criteria set forth in the 'machine-or-transformation test' as they are not tied to another specific statutory class. The claims themselves amount to 'an exchange of a virtual material' including 'playing a game,' 'use of cash,' and 'receiving currency for playing.' Such process steps lack any tangibility or transformation of any article or materials. The state of the physical device is not conveyed as changing or being modified from the process steps listed. Therefore the instant claims fail to meet the standard set forth by In re Bilski and do not pass the 'machine-or-transformation test.'

Office Action, page 4. Applicant has amended claims 41 and 124 to tie the claims to a computer apparatus.

More particularly, Applicant has amended these claims to each require that the house actually be a "computer-casino" through which the player interacts on a data communication medium during the playing of the games of uncertain outcome. Support for this amendment may be found on page 19, lines 6 – 20 of the originally filed specification, as recited hereinabove. As previously described, Applicant is now requiring that the method of claims 41 and 124 be performed by a computer-based house such as an online casino, or a casino that is computerized such that the player interacts with the computer through a data communication medium that is directly connected to the computer casino house when playing of the games of uncertain outcome. Again, a "computer casino" may comprise a plurality of slot machines that each accept betting through a digital card swiper and provide these bets to the computer. The player may interact with the computer while playing so that when the player wins, the computer credits the swiped card with the winnings in accordance with the claimed method (where the total market value of the winnings is greater than or equal to the total market value of the currency bet).

In light of the amendments and remarks hereinabove, Applicant respectfully contends that method claims 41 and 124 are now in compliance with 35 U.S.C. 101 and pass the "machine-or-transformation test." Because claims 42 – 73 and 76 – 92 depend from claim 41, and claims 125 – 147, and 150 – 154 depend from claim 124, Applicant respectfully contends that these dependent claims are in compliance with 35 U.S.C. 101 for at least the same reasons. Thus, Applicant respectfully requests the Examiner withdraw this rejection.

35 U.S.C. § 103(a)

The Examiner rejected claims 155 – 159 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Weiss.

Applicant respectfully contends that currently amended claims 155-159 are non-obvious and patentable over Weiss because Weiss does not teach, disclose, or suggest each and every element of the claims. For example, Weiss does not teach or suggest that "the total market value of the take home currency provided to the players by the entrance-exchange structure is greater than or equal to the total market value of currency bet by the players of the entrance-exchange structure." Independent claim 155 has been amended to include this limitation. Applicant has taken care to assure that no new matter has been added with this limitation. Support for this amendment may be found beginning on page 9, line 9 of the originally filed application where an example is given whereby a player is paid, on average, $0.80 in cash and $0.25 in scrip for every dollar bet. Next, in the Example beginning on page 11, line 11 of the originally filed application, the $1.00 of scrip has a market value of $1.00 (or greater than $1.00 in the $1.10 example). Combining these examples, the total market value of the take home currency provided to the players by the entrance-exchange structure is greater than or equal to the total market value of currency bet by the players of the entrance-exchange structure. None of the references cited by the Examiner teach this limitation. While Weiss may teach providing "scrip" to players for gambling, Weiss does not teach that the market value of the scrip plus currency paid to a player on average is greater than or equal to the market value of the currency bet by the player. In fact the limitation is counterintuitive to all previous gambling structures involving a "house." In these prior art gambling structures, a player, on average, will take home less than they bet. This

is how a house makes money. However, in the presently amended claims, the **opposite** is true and the player, on average makes money gambling.

This is a counterintuitive and novel teaching of Applicant's invention. Prior to the teachings of Applicant, if a player bets $100 then the market value (on average) received by that player in both scrip and cash will be less than $100 for that bet. Weiss teaches nothing beyond this typical entrance-exchange construction. In other words, Weiss may teach "comping" a player, but the market value of these comps, combined with the market value of the cash that a player wins on average is still less than the player's bet.

In contrast, the present invention claims a structure wherein a player may bet $100 and receives on average, for example, scrip worth $40 **and** cash worth $70, combining for a total market value of $110. Again, this average return is **greater** or equal to the player's bet of $100. Essentially, the present invention teaches that the player sacrifices the autonomy of cash (being able to spend-able on virtually anything) for scrip (being spend-able only at participating vendors). A vendor may then work out a deal with the house such that 1$ of scrip is worth $0.50 cash. Thus, the entrance exchange structure of the present invention may result in reduced profits for the vendor. However, a vendor may desire to enter into this arrangement with a house because of the increase in demand at the vendor resulting from the fact that the scrip has a limited number of scrip-accepting vendors. None of the cited references teaches this unexpected and counterintuitive entrance-exchange structure whereby a player takes home, on average, currency worth greater than or equal to what they bet.

In light of the arguments made hereinabove, Applicant respectfully contends that independent claim 155 is not unpatentable under 35 U.S.C. § 103(a) over Weiss. Likewise, because claims 156-159 depend from claim 155, Applicants respectfully contend that claims

156-159 are in condition for allowance for at least the reasons outlined above. Applicants therefore respectfully request the Examiner withdraw the rejection under 35 U.S.C. § 103(a).

The Examiner also rejected claims 160-164 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Weiss (U.S. Patent No. 6,511,377 B1) and further in view of Walker (U.S. Patent App. 2003/0060276). Because claims 160-164 depend from claim 155, Applicant respectfully contends that claims 160-164 are also in condition for allowance for at least the reasons outlined above. Applicants therefore respectfully request the Examiner withdraw this rejection under 35 U.S.C. § 103(a).

CONCLUSION

Based on the preceding arguments, Applicant respectfully believes that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicant invites the Examiner to contact Applicant's representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 19-0513.

Date: June 2, 2010

/Arlen L. Olsen/
Arlen L. Olsen
Registration No. 37,543
Customer No. 05409
Schmeiser, Olsen & Watts
22 Century Hill Drive, Suite 302
Latham, New York 12110
Telephone (518) 220-1850
Facsimile (518) 220-1857